
Appeal Decision

Hearing held on 4 October 2016

Site visit made on 4 October 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25th October 2016

Appeal Ref: APP/A0665/W/16/3146464

Swallow Farm, Mill Lane, Hargrave, Huxley, Chester CH3 7RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Colin & Tracy Oats against the decision of Cheshire West & Chester Council.
 - The application Ref 14/03786/FUL, dated 28 August 2014, was refused by notice dated 18 September 2015.
 - The development proposed is erection of a detached bungalow.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs Colin & Tracy Oats against Cheshire West & Chester Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellants evidence refers to Policy EC 21 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies (CWCLP Part One), adopted January 2015. However, Policy EC 21 relates specifically to development proposals for agricultural diversification. The provision of a new dwelling does not fall within the definition of agricultural diversification and therefore Policy EC 21 has little relevance to the proposal before me.
4. The Central Gowy (South) Neighbourhood Development Plan – Document 1 - The Plan 2015-2030 (emerging Neighbourhood Plan) has been brought to my attention and the designated Neighbourhood Area includes the site. It is common ground that some weight can be attached to the document as a material consideration as it is awaiting examination.

Main Issues

5. The main issues of this appeal are:
 - Whether the proposal would be an isolated new home in the countryside, in terms of access to services and facilities;
 - If so, whether there is an essential need for a rural worker to live permanently at or near their place of work, and;
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- The effect on the character and appearance of the site and its surroundings.

Reasons

Whether the proposal would be an isolated new home in the countryside

6. Policy STRAT 1 of the CWCLP Part One seeks that new housing be located where it would have good accessibility to existing or proposed local shops, community facilities, primary schools and good connections to public transport. It is common ground between the main parties that the Council can demonstrate a five-year supply of deliverable housing sites.
7. The dwelling would be sited within an existing field located in the north west corner of Swallow Farm, which is at the edge of Hargrave, and would be served by an existing field access track from the junction of Church Lane and Mill Lane. Policy STRAT 2 of the CWCLP Part One does not identify Hargrave, or the other nearby village of Huxley, amongst the list of identified key service centres in rural areas that represent the most sustainable rural locations where development will be focused. Nevertheless, Policy STRAT 2 permits an appropriate level of development in smaller rural settlements which have adequate services, facilities and access to public transport. However, these rural settlements are intended to be identified in the Cheshire West & Chester (Part Two) Land Allocations and Detailed Policies Plan (CWCLP Part Two), which has yet to reach its publication stage and therefore can be given little weight.
8. The explanatory text of Policy STRAT 9 of the CWCLP Part One advises that until the Cheshire West & Chester (Part Two) Land Allocations and Detailed Policies Plan (CWCLP Part Two) has been adopted, the retained policies in the Chester District Local Plan (CDLP), adopted in 2006, relating to settlement boundaries and development beyond the existing built form of settlements will continue to operate. It is common ground between the main parties that the site is within the open countryside. However, the appellants contend that the development is not isolated due to its proximity to other houses and the presence of a bus service.
9. The emerging Neighbourhood Plan identifies the rural settlements within the Neighbourhood Area, which includes Hargrave, to be predominantly dispersed and generally low density, with limited facilities and infrastructure. Consequently, most residents are reliant on facilities in Chester or the nearby key service centres, of which Tattenhall is closest at approximately 3 miles from the site. Having visited the site, its surroundings and the nearby villages, I consider that this assessment is accurate as Hargrave has only very limited services and facilities, including a church, a village hall, a privately owned playing field and bowling green, and a post box.
10. The limited available services and facilities in Hargrave would require that future occupiers of the proposed dwelling travel much further afield for everyday needs such as a convenience store, a post office, schools, a public house, childcare and medical facilities. There are bus services approximately every 2 hours on weekdays and Saturdays from mornings until early evenings that link Hargrave with Tattenhall and Chester, together with a number of other larger villages and towns. However, there is an absence of street lighting and a continuous footpath linking the site to Hargrave and therefore the infrequent bus services would appear inconvenient to regularly meet the everyday needs. Consequently, it is highly unlikely that occupiers of the

proposed dwelling would regularly access the services and facilities on foot or via bicycle, particularly at night or in inclement weather.

11. The development would encourage dependency on private car use to meet day to day needs. I, therefore, consider that the site is an isolated location for a new home in the countryside, irrespective of the sporadic presence of other dwellings in the locality. The proposal would not, of itself, generate a large number of traffic movements and some dependency upon car use is inevitable in rural locations. Nevertheless, the cumulative effect of allowing development in isolated locations would be likely to increase the amount of unsustainable journeys made. In the short term, the car journeys arising from a new dwelling within the site would be more than offset by the reduction in car journeys that the appellants currently make from their home in Tattenhall to Swallow Farm. However, a new dwelling would be a permanent addition to the site which would be highly probable to remain beyond the appellants' ownership and therefore, would be harmful by virtue of its isolated location in the long term. Consequently, there would be potential conflict with Policies STRAT 1 and STRAT 2 of the CWCLP Part One.
12. Having regard to the above, paragraph 55 of the National Planning Policy Framework (the Framework) states that isolated homes in the countryside should be avoided unless there are special circumstances, such as an essential need for a rural worker to live permanently at or near their place of work. Paragraph 55 replaces advice in the former PPS7 Annex A which set out a methodology for assessing whether there was an essential need for a rural workers dwelling. However, as PPS7 Annex A no longer applies, it is necessary to decide on a case by case basis which factors need to be taken into account, when making an assessment to establish whether an essential need can be demonstrated. In this respect, I consider that it is necessary to determine whether it is essential for the proper running of the enterprise for a worker to live on the site and be readily available at most times, and be satisfied that the enterprise is financially viable and likely to endure in the long term.

Essential Need

13. In accordance with the Framework, Policy STRAT 9 of the CWLP Part One seeks that the intrinsic character and beauty of the Cheshire countryside will be protected by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements. This includes, amongst other things, development that has an operational need for a countryside location. Policies HO7 and EC23 of the CDLP, when taken together, set criteria for new dwellings for persons engaged full-time in agriculture, forestry or other rural enterprises. The criteria in Policy EC23 includes, amongst other things, demonstration of an essential need and reference to functional and financial need for a dwelling.
14. The adoption of the CDLP predates the Framework. However, paragraph 211 of the Framework states that policies in Local Plans should not be considered out of date simply because they were adopted prior to the publication of the Framework, and paragraph 215 advises that due weight should be given to such policies according to their degree of consistency with the Framework. In this respect, Policies HO7 and EC23 of the CDLP remain consistent with the Framework in terms of the requirement to demonstrate an essential need for a permanent dwelling at or near their place of work in the countryside.

15. Swallow Farm which the appellants purchased in 2009 consists of approximately 5 hectares. The holding currently has two existing barns, one barn being located in the main yard adjacent to the access from Mill Lane and a further barn located towards the southern extent of the holding that is partially screened by a tree line. There are also polytunnels, containers, a poultry enclosure, poultry houses, a pig enclosure and a small plant nursery, together with a number of field enclosures. All of the buildings and associated infrastructure appear to be in current use as part of the on-going enterprise.
16. The holding is an example of rural diversification and is divided up for livestock rearing, poultry farming including egg production, and horticulture, including bedding plants, cut flowers, vegetables, willow trees, hazel trees and Christmas trees. The livestock rearing involves lambing and kidding, with other livestock and poultry purchased. During the Hearing, it was confirmed that there are currently 15 calves, 5 inkid dairy goats, 10 sheep and 120 laying birds kept at Swallow Farm. In addition, approximately 100 turkey poults, cobb chickens and table birds are currently on order for the winter and pigs are also kept over the summer. Sales and orders for produce are made at the site and also at country and farmers markets, including nearby at Tattenhall.
17. Although not part of the same holding, an additional 20 sheep kept over the winter at Swallow Farm are currently at a separate rented holding in Tushingham, approximately 10 miles away, where a family member lives. A further 12 rare breed ewes are currently kept at a separate rented holding in Burton, approximately 1.5 miles from the site, but are kept at Swallow Farm during lambing. Egg production utilises a registered packing station approximately 2 miles from the site.
18. The holding is relatively small and the numbers of livestock and poultry kept at Swallow Farm varies seasonally. Nevertheless, the existing rural enterprise is labour intensive. The evidence before me indicates that the business is Mrs Oats only source of income and that the appellants typically work at Swallow Farm for in excess of 8 hours each day. I observed two caravans within the site, one of which appears to have been in recent use as overnight accommodation and is located in close proximity to a barn where livestock can be kept overnight. It was confirmed at the Hearing that the caravan had been used as overnight accommodation on approximately 40 occasions over the previous year for animal welfare reasons primarily during lambing and kidding between February and May.
19. The need for farmers to maintain an overnight presence during lambing and kidding is widely recognised, although it is a seasonal need. The appellants have indicated that the caravan is unsuitable in winter and lacks basic amenities. However, based on the evidence before me the seasonal needs of the enterprise have previously been met through temporary overnight accommodation in the caravan, an arrangement that could continue. The appellants have provided a business plan which indicates an expansion of lambing and also stated an intention to commence milk production due to Mrs Oats previous experience working on a goat farm. However, I am not satisfied based on the evidence before me that this would significantly increase the need for overnight accommodation during the seasonal periods of lambing and kidding. In such circumstances, the seasonal requirements for overnight accommodation based on the scale of the existing enterprise and the plans for future expansion would not, of itself, justify a permanent dwelling on the site.

20. The livestock and poultry kept on the site need to be fed and checked several times each day, with poultry locked away at night and let out each morning. There are also frequent requirements for livestock to be accommodated within the barns overnight. However, these duties can reasonably be carried out during working hours and therefore an overnight presence within the site, whilst more convenient, is not essential. In addition, there is no evidence that the horticulture processes taking place require an overnight presence.
21. Living on site would enable the appellants to keep a close eye on their livestock in the interest of animal welfare and to respond more quickly when emergencies arise. A letter of support was received from Nantwich Veterinary Group with reference to the unpredictability of welfare issues. The appellants confirmed that they have lost 3 calves and a pig to illness during the 7 year period of operating the business. The appellants contend that if they had been permanently based at the farm they may have been able to have secured veterinary services more quickly thereby possibly reducing the frequency of such losses. This is an important consideration and I do not discount it lightly. However, the limited scale of the existing enterprise, together with the small number and infrequency of losses over a 7 year period does not clearly demonstrate an essential need for a worker to be readily available at all times. Whilst the expansion of the livestock business in the future could facilitate such a need, the growth of the business would have to be financially viable and capable of enduring into the future.
22. The appellants have indicated that the business is still evolving and has not expanded to date due to constraints of not living permanently on site, lack of existing infrastructure and previous investments in keeping horses having not proven profitable. There would be evident benefits of growth of the business, including the contribution it makes to the rural economy and the access it provides for rural communities to local produce. In this respect, I accept that future financial plans involve some uncertainty and that the appellants have some experience of successfully running businesses, together with previous employment in other rural enterprises. I have also considered the appellants' unwillingness to date to expand the business due to on-site constraints. However, the recent investment in connection to the electricity grid would remove a significant constraint on the growth of the enterprise and could facilitate an improvement of the on-site facilities available for rural workers and animal welfare, irrespective of the presence of a permanent dwelling.
23. I recognise that the appellants travel some distance to the site from their home on a number of occasions each day to look after the livestock and poultry. Accommodation is sometimes available in closer proximity, albeit at a cost which the appellants state that they are unable to afford and consisting of houses of unsuitable size. The desire to consolidate operations on one site is understandable as this would be more convenient and practical for the appellants, reducing journey times and related travel costs. However, based on my previous findings there would not be an essential need for this to occur. Furthermore, there are alternative options available to reduce the number of journeys required and associated travel costs, through additional investment in infrastructure and facilities within the site that could be undertaken without the presence of a permanent dwelling.
24. Full business accounts for the enterprise since it was established in 2009 have not been provided. At the Hearing, VAT returns relating to the period from

- 1 August 2015 to 31 July 2016 were submitted. However, the information provides only a summary of total sales values and total purchase values excluding VAT. In this respect, the annual purchases of the business significantly exceeded the sales during that period, which remains the case even if capital purchases such as a new tractor, and recent infrastructure improvements such as the new electrical supply, are excluded.
25. Having regard to the above, it would suggest that the existing enterprise although well-established has not in reality been operating on a sustainable basis. The appellants contend that the VAT returns reflect reinvestment of previous profits made during the previous six years. However, there is no evidence of such profits before me. In addition, the appellants' business plan includes only details of projected income from sales arising from the enterprise, and therefore has a lack of any firm evidence of how the future costs arising from the expansion of the business would be met to achieve profitability.
26. In the absence of full accounts indicating sustained profits, I cannot conclude that the rural enterprise would be capable of funding the necessary investment required to achieve the aspirations of the business plan. This could reasonably include a requirement for additional buildings and infrastructure to accommodate livestock, store animal feed and expand poultry processes, together with a salary for a full time employee when Mr Oats becomes less physically involved with the business as intended. Whilst I sympathise with the appellant's situation in seeking to expand the business, I am not satisfied based on the evidence before me that the enterprise is financially sound or would be viable in the long term as required to demonstrate an essential need for a rural worker to live permanently at the site.
27. In reaching the above findings, I have taken into account the intention to fund the new dwelling through the sale of the appellant's existing house in Tattenhall rather than through the business, and potential reductions in existing travel costs arising from the appellants travelling to and from the site. Whilst, the reduction in travel and travel costs would assist the appellants both financially and in terms of convenience, I am not satisfied based on the evidence before me that it would be a determinative factor that would make the enterprise financially sound and viable in the future. Furthermore, the chosen method of funding the proposed dwelling, although avoiding a cost upon the business, raises concerns regarding the inability of the scale of the enterprise to otherwise fund it. In this respect, I am mindful that whether a dwelling is essential depends on the particular needs of the enterprise rather than the personal circumstances of any individuals concerned.
28. The security needs of a rural business may, in some circumstances, contribute to the need for an on-site dwelling. I appreciate that the appellants are concerned about the welfare of the animals on the holding, and wish to maintain the security of the business. I also observed the presence of a public footpath adjoining part of the site which increases its vulnerability to intruders. The appellants have referred to 4 previous incidents since 2009, including the overnight loss of 2 sheep, the loss of a number of hens and ducks, together with the theft of tools and equipment. However, no police incident reports have been provided and the appellants indicated that the thefts predominantly occurred in the early years when the business was establishing. In the intervening period, there has been some investment in additional security measures such as improved fencing, raised gates and security lighting which

appear to have assisted in reducing the frequency of incidents. Consequently, there is no firm evidence of an existing problem with crime on the holding.

29. Having regard to the above, whilst it may be preferable for the appellant to have a dwelling on the appeal site as a crime deterrent, it does not appear to be essential to the continued operation of the holding or the wider enterprise. Other additional measures such as periodic patrolling could be employed, and could provide enhanced security on the holding. Furthermore, once the connection to the electricity grid is complete, additional security options such as alarms and CCTV would be available.
30. There is no dispute between the parties that the proposed dwelling would be of a suitable size for the appellants if an essential need were proven. However, the size of any accommodation should relate to the needs of the enterprise and not to the particular needs of one family. It seems to me that whether or not the proposed dwelling would be of an appropriate size cannot be determined without being satisfied that the business has an essential need for a permanent dwelling and that such a need would endure in the future. Based upon the evidence before me, I cannot be certain that would be the case.
31. Taking all of the above factors into account, a permanent dwelling in this location requires very clear evidence of a long term essential need. The evidence presented is not sufficient to satisfy me that there is such a need.
32. I conclude that it has not been demonstrated that there is an essential need for a rural worker to live permanently at the site in the countryside. As such, whilst I recognise that living on site would mean the appellants would not need to travel to work, the proposal would be harmful as it would consist of an isolated dwelling in the countryside where special circumstances have not been justified. The proposal would, therefore, conflict with Policies STRAT1, STRAT2, STRAT9 of the CWCLP Part One, Policies HO7 and EC23 of the CDLP and paragraph 55 of the Framework.

Character and appearance

33. The proposed dwelling would be located to the north western corner of the site with an access onto Church Lane where it meets Mill Lane. The dwelling would be adjacent to an existing poultry enclosure. However, it would be set away from the existing yard, barn and caravans accessed from Mill Lane, with a further barn distanced to the south. The siting of the dwelling would also narrow the existing gap between the sporadic pattern of linear development located along Church Lane and the existing buildings within Swallow Farm.
34. The design of the dwelling and use of materials would not appear out of place relative to the diverse appearance of existing dwellings in the surrounding area. However, in the proposed location, any new dwelling together with its associated access and residential curtilage, would inevitably change and detract from the undeveloped character and appearance of the existing field and its contribution to the rural landscape. This harmful effect would be visible from the proposed access onto Church Lane, irrespective of the hedge and tree screening to the Mill Lane frontage and the reduced scale, bulk and massing of a bungalow. Consequently, there would be harm to the character and appearance of the area. Such harm would be exacerbated by the separation of the dwelling from the main yard and existing buildings within Swallow Farm and could not be mitigated by additional landscaping.

35. I conclude that the development would harm the character and appearance of the site and its surroundings. The proposal would, therefore, conflict with Policies STRAT9 of the CWCLP Part One and Saved Policy EC23 of the Chester District Local Plan (CDLP). When taken together these policies seek to protect the intrinsic character and beauty of the Cheshire countryside through restricting development to that which requires a countryside location and ensuring that it is visually and functionally well related to existing buildings. The policies are consistent with the Framework.
36. Limited weight is also given to the conflict with Policies 1 and 3 of the emerging Neighbourhood Plan in so far as they seek that development is in accordance with Policy STRAT9 of the CWCLP Part One and that proposals should not adversely impact the local character of the area, including the rural landscape.

Other Matters

37. Letters and a petition in support of the proposal were received and reflect a degree of community support for the proposed development, albeit that there are also objections from local residents and Hargrave & Huxley Parish Council. I have taken the views within all of the correspondence into account. However, the presence of some community support for the proposal does not justify the harm identified and conflict with the development plan and the Framework.
38. The development offers potential benefits in terms of increasing housing supply and housing choice in rural areas, including through the potential availability of the appellant's existing home in Tattenhall. The addition of a dwelling in a rural location would also provide potential support for the vitality of rural communities and local services in Hargrave and other nearby villages. The development would, therefore, contribute to the objectives of Chester West and Chester Council, Rural Regeneration Strategy and Action Plan, adopted 2011. There would also be some environmental benefits relating to the proposed energy efficiency measures of the dwelling. However, these benefits are limited by the scale of the development proposed and do not outweigh the harm identified.
39. The rural enterprise currently employs the appellants as rural workers and successful growth of the rural enterprise could require the need for an additional worker. However, as there is insufficient evidence that the business is financially sound and that the delivery of the business plan would be viable, little weight can be offered to the prospect of a permanent dwelling assisting the expansion of the business and the provision of rural employment.
40. The appellants referred to a current planning application at Higher Huxley Farm which seeks to convert an agricultural storage building into a single storey dwelling as an example of potential development nearby. However, it would appear that the circumstances are not directly comparable with those that apply in this appeal, which is necessarily determined on its individual merits.

Conclusion

41. For the reasons given above, and having taken all matters raised into account, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Colin Oats	Appellant
Tracy Oats	Appellant
Jennifer Watts BSc LLDip MCIWM	Watts Legal

FOR THE LOCAL PLANNING AUTHORITY:

Gail Nickson BA (Hons) MCD	Cheshire West and Chester Council
Daniel Nickson	Cheshire West and Chester Council (present at site visit only)

INTERESTED PERSONS:

Jane Windsor	Hargrave & Huxley Parish Council (not present at site visit)
Robert Windsor	Local resident (not present at site visit)

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Letter dated 17 October 2015 from SP Energy Networks
- 2 Summary of turnover from VAT returns of Colin Oats & Tracey Oats for tax year 2016 for the period of May - July 2016
- 3 Policy EC21 of the Chester District Local Plan
- 4 Central Gowy (South) Neighbourhood Development Plan Document 1 – The Plan 2015-2030
- 5 VAT returns of Colin Oats & Tracey Oats covering the period from 1 August 2015 to 31 July 2016
- 6 Schedule of Appellants Costs (Costs Application)
- 7 Agreed Statement of Common Ground signed and dated 4 October 2016